

MEMO ENDORSED

Court of subject matter jurisdiction. *E.g., Thomas v. Grunberg 77 LLC et ano*, 15-cv-1925(GBD)(BCM), 2017 WL 3263141 (S.D.N.Y. 07/28/2017), adopting Report and Recommendation of United States Magistrate Judge Barbara Moses (copies attached).

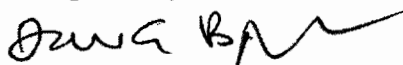
As detailed by Judge Moses (starting at page 4 of her Report), since the only relief available under federal law is injunctive relief, “[w]hen such redress is no longer possible, the ADA claim becomes moot, depriving the court of subject-matter jurisdiction, and must be dismissed.” Judge Daniels adopted this report *in toto* and without objection.

To conserve this Court’s most precious resource, namely its time, as well as the resources of the parties and counsel, I respectfully propose that our 1/27 conference be **adjourned** approximately four (4) weeks. By then I should have confirmation that Tenant has, in fact, exited the subject premises. By that time, perhaps Mr. Marks will also have withdrawn this case, based on the above, obviating the need for a conference. Alternatively, in mid to late February, I could file a motion to dismiss (the state and city law claims without prejudice), supported by a brief affidavit.

Of course, I am still happy to attend the scheduled conference on 1/27, if the Court would prefer to proceed in that manner. In addition to Mr. Marks, I am copying Landlord’s counsel, who I understand will be filing an appearance in this action soon. Could the Court please kindly advise?

Thank you.

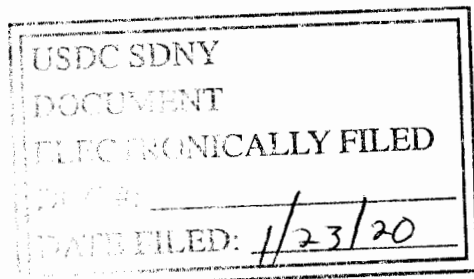
Respectfully submitted,


  
David E. Bamberger

Attachments

Cc: Bradley G. Marks, Esq.  
  
Jay Solomon, Esq.  
Belkin Burden Goldman LLP  
(by email)

The conference will proceed as scheduled. The timing of the proposed motion (which would be returnable before Judge Gardephe) and any request for a stay of discovery will be addressed at that time. The Court assumes the landlord’s attorney will be appearing at that conference. If such is not the case, the parties should seek to adjourn the conference to a date when the landlord will appear.



  
GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE